

House File 2423 - Introduced

HOUSE FILE 2423
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 622)

A BILL FOR

1 An Act relating to consumer protection modifying provisions
2 applicable to consumer security freezes and personal
3 information security breach protection.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 714G.2, Code 2018, is amended to read as
2 follows:

3 **714G.2 Security freeze.**

4 1. A consumer may submit ~~by certified mail to a consumer~~
5 ~~reporting agency~~ a written request for a security freeze to
6 a consumer reporting agency by first-class mail, telephone,
7 facsimile, secure internet connection, secure electronic mail,
8 or other secure electronic contact method. The consumer must
9 submit proper identification ~~and the applicable fee~~ with the
10 request. Within ~~five~~ three business days after receiving
11 the request, the consumer reporting agency shall commence
12 the security freeze. Within ~~ten~~ three business days after
13 commencing the security freeze, the consumer reporting agency
14 shall send a written confirmation to the consumer of the
15 security freeze, a personal identification number or password,
16 other than the consumer's social security number, for the
17 consumer to use in authorizing the suspension or removal of
18 the security freeze, including information on how the security
19 freeze may be temporarily suspended.

20 2. a. If a consumer requests a security freeze from a
21 consumer reporting agency that compiles and maintains files
22 on a nationwide basis, the consumer may request to have the
23 security freeze applied to any other consumer reporting agency
24 that compiles and maintains files on consumers on a nationwide
25 basis.

26 b. For purposes of this subsection, "consumer reporting
27 agency that compiles and maintains files on a nationwide basis"
28 means the same as defined in 15 U.S.C. §1681a(p).

29 Sec. 2. Section 714G.3, subsection 1, Code 2018, is amended
30 to read as follows:

31 1. A consumer may request that a security freeze be
32 temporarily suspended to allow the consumer reporting agency to
33 release the consumer credit report for a specific time period.
34 The consumer reporting agency ~~may~~ shall develop procedures
35 to expedite the receipt and processing of requests ~~which may~~

1 ~~involve the use of telephones by first-class mail, telephone,~~
2 ~~facsimile transmissions, the secure internet connection, secure~~
3 ~~electronic mail, or other secure electronic media contact~~
4 ~~method.~~ The consumer reporting agency shall comply with
5 the request within three business days after receiving the
6 consumer's written request, or within fifteen minutes after
7 the consumer's request is received by the consumer reporting
8 agency through facsimile, the secure internet connection,
9 secure electronic mail, or other secure electronic contact
10 ~~method chosen by the consumer reporting agency,~~ or the use of
11 a telephone, during normal business hours. The consumer's
12 request shall include all of the following:

13 a. Proper identification.

14 b. The personal identification number or password provided
15 by the consumer reporting agency.

16 c. Explicit instructions of the specific time period
17 designated for suspension of the security freeze.

18 ~~d. Payment of the applicable fee.~~

19 Sec. 3. Section 714G.4, unnumbered paragraph 1, Code 2018,
20 is amended to read as follows:

21 A security freeze remains in effect until the consumer
22 requests that the security freeze be removed. A consumer
23 reporting agency shall remove a security freeze within three
24 business days after receiving a request for removal that
25 includes proper identification of the consumer, and the
26 personal identification number or password provided by the
27 consumer reporting agency, ~~and payment of the applicable fee.~~

28 Sec. 4. Section 714G.5, Code 2018, is amended to read as
29 follows:

30 **714G.5 Fees prohibited.**

31 ~~1. A consumer reporting agency shall not charge any fee to~~
32 ~~a consumer who is the victim of identity theft for commencing~~
33 ~~a security freeze, temporary suspension, or removal if with~~
34 ~~the initial security freeze request, the consumer submits a~~
35 ~~valid copy of the police report concerning the unlawful use of~~

1 ~~identification information by another person.~~

2 ~~2. A consumer reporting agency may charge a fee not to~~
3 ~~exceed ten dollars to a consumer who is not the victim of~~
4 ~~identity theft for each security freeze, removal, or for~~
5 ~~reissuing a personal identification number or password if the~~
6 ~~consumer fails to retain the original number. The consumer~~
7 ~~reporting agency may charge a fee not to exceed twelve dollars~~
8 ~~for each temporary suspension of a security freeze.~~

9 A consumer reporting agency shall not charge a fee to a
10 consumer for providing any service pursuant to this chapter,
11 including but not limited to placing, removing, temporarily
12 suspending, or reinstating a security freeze.

13 Sec. 5. Section 714G.8A, subsection 1, paragraph d, Code
14 2018, is amended by striking the paragraph.

15 Sec. 6. Section 714G.8A, subsection 3, paragraph d, Code
16 2018, is amended by striking the paragraph.

17 Sec. 7. Section 714G.8A, subsection 5, Code 2018, is amended
18 to read as follows:

19 5. ~~a.~~ A consumer reporting agency ~~may~~ shall not charge
20 a reasonable fee, ~~not to exceed five dollars,~~ for each the
21 placement, or removal, or reinstatement of a protected consumer
22 security freeze. A consumer reporting agency may not charge
23 any other fee for a service performed pursuant to this section.

24 ~~b.~~ Notwithstanding paragraph "a", a fee may not be charged
25 by a consumer reporting agency pursuant to either of the
26 following:

27 ~~(1) If the protected consumer's representative has obtained~~
28 ~~a police report or affidavit of alleged identity theft under~~
29 ~~section 715A.8 and submits a copy of the report or affidavit to~~
30 ~~the consumer reporting agency.~~

31 ~~(2) A request for the commencement or removal of a protected~~
32 ~~consumer security freeze is for a protected consumer who is~~
33 ~~under the age of sixteen years at the time of the request and~~
34 ~~the consumer reporting agency has a consumer credit report~~
35 ~~pertaining to the protected consumer.~~

1 Sec. 8. Section 715C.1, subsections 1 and 5, Code 2018, are
2 amended to read as follows:

3 1. "*Breach of security*" means unauthorized acquisition,
4 or reasonable belief of unauthorized acquisition, of personal
5 information maintained in computerized form by a person that
6 compromises the security, confidentiality, or integrity of
7 the personal information. ~~"Breach of security" also means~~
8 ~~unauthorized acquisition of personal information maintained~~
9 ~~by a person in any medium, including on paper, that was~~
10 ~~transferred by the person to that medium from computerized~~
11 ~~form and that compromises the security, confidentiality, or~~
12 ~~integrity of the personal information.~~ Good faith acquisition
13 of personal information by a person or that person's employee
14 or agent for a legitimate purpose of that person is not a
15 breach of security, provided that the personal information
16 is not used in violation of applicable law or in a manner
17 that harms or poses an actual threat to the security,
18 confidentiality, or integrity of the personal information.

19 5. "*Encryption*" means the use of an algorithmic process
20 pursuant to accepted industry standards to transform data into
21 a form in which the data is rendered unreadable or unusable
22 without the use of a confidential process or key.

23 Sec. 9. Section 715C.2, subsections 7 and 8, Code 2018, are
24 amended to read as follows:

25 7. **This section** does not apply to any of the following:

26 a. A person who complies with notification requirements or
27 breach of security procedures that provide greater protection
28 to personal information and at least as thorough disclosure
29 requirements than that provided by **this section** pursuant to
30 the rules, regulations, procedures, guidance, or guidelines
31 established by the person's primary or functional federal
32 regulator.

33 b. A person who complies with a state or federal law
34 that provides greater protection to personal information and
35 at least as thorough disclosure requirements for breach of

1 security or personal information than that provided by this
2 section.

3 *c.* A person who is subject to and complies with regulations
4 promulgated pursuant to Tit. V of the federal
5 Gramm-Leach-Bliley Act of 1999, 15 U.S.C. §6801 – 6809.

6 d. A person who is subject to and complies with regulations
7 promulgated pursuant to Tit. II, subtit. F of the federal
8 Health Insurance Portability and Accountability Act of 1996,
9 42 U.S.C. §1320d – 1320d-9, and Tit. XIII, subtit. D of the
10 federal Health Information Technology for Economic and Clinical
11 Health Act of 2009, 42 U.S.C. §17921 – 17954.

12 8. Any person who owns or licenses computerized data that
13 includes a consumer's personal information that is used in
14 the course of the person's business, vocation, occupation,
15 or volunteer activities and that was subject to a breach of
16 security requiring notification to more than five hundred
17 residents of this state pursuant to this section shall give
18 written notice of the breach of security ~~following discovery~~
19 ~~of such breach of security, or receipt of notification under~~
20 ~~subsection 2,~~ to the director of the consumer protection
21 division of the office of the attorney general within five
22 business days after giving notice of the breach of security to
23 any consumer pursuant to ~~this section.~~

24 EXPLANATION

25 The inclusion of this explanation does not constitute agreement with
26 the explanation's substance by the members of the general assembly.

27 This bill relates to consumer security freezes and personal
28 information security breach protection.

29 Current law permits a consumer to submit a request for a
30 security freeze via certified mail. The bill expands the
31 methods permitted for a consumer to submit a request for
32 a security freeze to allow such requests to be submitted
33 via first-class mail, telephone, facsimile, secure internet
34 connection, secure electronic mail, or other secure electronic
35 contact method.

1 The bill reduces the number of days by which a consumer
2 reporting agency must commence a security freeze after
3 receiving a request from five to three business days. The bill
4 also reduces the number of days by which a consumer reporting
5 agency must send written confirmation to a consumer after
6 commencing a security freeze from ten to three business days.

7 The bill provides that if a consumer requests a security
8 freeze from a consumer reporting agency that compiles and
9 maintains files on a nationwide basis, as defined in the bill,
10 the consumer may request to have the security freeze applied to
11 any other similar consumer reporting agency.

12 The bill requires consumer reporting agencies to develop
13 procedures to expedite the receipt and processing of security
14 freeze suspension requests received via the same methods
15 permitted for consumers to submit such requests. The bill
16 requires a consumer reporting agency to commence a security
17 freeze suspension within 15 minutes after receiving a request
18 through telephone, facsimile, secure internet connection,
19 secure electronic mail, or other secure electronic contact
20 method.

21 The bill prohibits consumer reporting agencies from charging
22 fees to consumers for providing any service pursuant to Code
23 chapter 714G, including but not limited to placing, removing,
24 temporarily suspending, or reinstating a security freeze. The
25 bill also prohibits consumer reporting agencies from charging
26 fees for placing or removing a protected consumer security
27 freeze pursuant to Code section 714G.8A. The bill removes
28 several references to payment of fees in Code chapter 714G.

29 The bill also modifies various provisions relating to
30 personal information security breach protection in Code
31 chapter 715C. The bill expands the definition of "breach of
32 security" to include the reasonable belief of unauthorized
33 acquisition of personal information. However, the bill removes
34 the unauthorized acquisition of personal information that was
35 transferred from computerized form to another medium from

1 the definition of "breach of security". The definition of
2 "encryption" is modified to mean the use of an algorithmic
3 process pursuant to accepted industry standards.

4 The bill exempts from the consumer notification requirements
5 persons who are subject to and comply with specified federal
6 health information laws.

7 Current law requires a person who owns or licenses personal
8 information that is subject to a breach of security requiring
9 notification to more than 500 consumers in the state, as
10 required by Code section 715C.2, to give written notice of the
11 breach of security to the director of the consumer protection
12 division of the office of the attorney general within five
13 business days after giving notice of the security breach to any
14 consumer. The bill removes language stating that a person give
15 such written notice following the discovery of the breach or
16 receipt of notification.